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STATUTORY INSTRUMENTS

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**2006 No. 501**

**The Fines Collection Regulations 2006**

**PART 5**

**Application of enactments with modifications**

**Purpose of the application of enactments**

**29.** The application of enactments with modifications in this Part is for the purpose of giving effect to Schedule 5 and section 97 of the Courts Act 2003 so far as it relates to that Schedule.

**Application with modifications of the Magistrates' Courts (Attachment of Earnings) Rules 1971**

**30.** In the case of a person aged 18 or over liable to pay a sum to which Schedule 5 applies, the Magistrates' Courts (Attachment of Earnings) Rules 1971(1) shall apply to attachments of earnings orders made under that Schedule as they apply to such orders made under the Attachment of Earnings Act 1971(2) but with the following modifications—

- (a) omit—
  - (i) rule 2(6) (interpretation of references to attachment of earnings order); and
  - (ii) rule 4 (jurisdiction as respects complaints for an attachment of earnings order);
- (b) in rule 6 (service of orders and notices)—
  - (i) in paragraphs (1) and (2) after “magistrates' court” insert “or a fines officer, as the case may be,”;
  - (ii) in paragraph (2), for “8 or 11” substitute “8(5)”; and
  - (iii) in paragraph (3)—
    - (aa) omit sub-paragraphs (a) and (b); and
    - (bb) in sub-paragraph (c) for the words from “65(2)” to the end of that sub-paragraph substitute “77(2) of the Magistrates' Courts Act 1980 (postponement of issue of warrant)”.
- (c) omit—
  - (i) rule 8 (notice of application for appropriate variation order);
  - (ii) rule 9 (jurisdiction as respects complaints for the discharge and variation of attachment of earnings orders);
  - (iii) rule 10 (complaints for variation or discharge of attachment of earnings orders against persons outside United Kingdom); and

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(1) S.I. 1971/809 as amended by S.I. 2001/615, S.I. 2003/1236 and S.I. 2005/617.

(2) 1971 c. 32.

- (iv) rule 11 (complaints by debtors for variation or discharge of attachment of earnings orders against persons who cannot be found);
- (d) in rule 12 (variation of attachment of earnings order on change of employment)—
  - (i) after “magistrates' court” insert “or a fines officer, as the case may be,”;
  - (ii) after both occurrences of “the court” insert “or the fines officer, as the case may be,”; and
  - (iii) after “its” insert “or his”.
- (e) in rule 13 (discharge of attachment of earnings order by court of its own motion)—
  - (i) in paragraph (1)—
    - (aa) after “a magistrates' court” insert “or a fines officer, as the case may be,”;
    - (bb) after “the magistrates' court” and after “the court”, in each place insert “or the fines officer, as the case may be,”;
    - (cc) after “its” insert “or his”;
  - (ii) omit paragraph (2); and
  - (iii) in the heading to the rule, for “of its” substitute “or fines officer of its or his”.
- (f) omit rule 14 (temporary variation of protected earnings rate);
- (g) in rule 15 (consolidated attachment orders)—
  - (i) in paragraph (1), after the first occurrence of “a magistrates' court” insert “or a fines officer, as the case may be,”;
  - (ii) in paragraph (2), —
    - (aa) after “a magistrates' court” insert “or a fines officer, as the case may be,”;
    - and
    - (bb) after “it” insert “or he”;
  - (iii) in paragraph (3)—
    - (aa) after “a magistrates' court” insert “or a fines officer, as the case may be,”;
    - (bb) after “any magistrates' court” insert “or fines officer”; and
    - (cc) after “the court” insert “or the fines officer, as the case may be,”;
  - (iv) in paragraph (4)—
    - (aa) after “magistrates' courts” insert “or fines officers”;
    - (bb) after “a magistrates' court” insert “or a fines officer, as the case may be,”;
    - and
    - (cc) after “those courts” insert “or one of those fines officers, as the case may be,”;
  - (v) in paragraph (5), after “debtor” insert “but a fines officer may exercise the powers conferred under paragraphs (2) to (4) of this Rule of his own motion only”;
  - (vi) omit paragraph (8);
  - (vii) in paragraph (9)—
    - (aa) after both occurrences of “magistrates' court” insert “or a fines officer, as the case may be,”;
    - (bb) after the first occurrence of the “first mentioned court” insert “or the first mentioned fines officer, as the case may be,”;

- (cc) after “second mentioned court” insert “or the court for which the second mentioned fines officer made the relevant attachment of earnings order”;
  - (dd) after the second occurrence of the “first mentioned court” insert “or the court for which the first mentioned fines officer is to make the consolidated attachment order”; and
  - (ee) for the words from “72 of the Magistrates' Courts Act 1952” to “(transfer of enforcement of legal aid contribution orders)” substitute “89 of the Magistrates' Courts Act 1980 (transfer of fine order)”;
- (viii) for paragraph (10) substitute—
- “(10) Where a magistrates' court or, as the case may be, a fines officer makes a consolidated attachment order, the order shall specify the percentage deduction rate in accordance with the Fines Collection Regulations 2006.
  - (11) Paragraph (10) applies irrespective of whether the orders to be consolidated include any order made—
    - (a) (before 27<sup>th</sup> March 2006) under section 1(3)(b) of the Act, to secure the payment of a sum adjudged to be paid by a conviction or treated as so adjudged to be paid; or
    - (b) under section 1(3)(c) of the Act, to secure the payment of a sum required to be paid under section 17(2) of the Access to Justice Act 1999 (recovery of criminal defence costs in publicly funded cases).”
- (h) in rule 16 (transfer of fines etc with view to making consolidated attachment order)—
- (i) in paragraph (1)—
    - (aa) after both occurrences of “a magistrates' court”, insert “or a fines officer, as the case may be,”;
    - (bb) after “first mentioned court” insert “or the first mentioned fines officer, as the case may be,”; and
    - (cc) after “second mentioned court” insert “or the second mentioned fines officer, as the case may be,”;
  - (ii) in paragraph (2)—
    - (aa) after “the court”, insert “or, as the case may be, the fines officer”; and
    - (bb) after “a court”, insert “or a fines officer”; and
  - (iii) in paragraph (3), for the words from “72” to the end of that paragraph substitute “89 (transfer of fine order) or section 90 (transfer of fines to Scotland or Northern Ireland) of the Magistrates' Courts Act 1980”;
- (i) in rule 18 (method of making payment under attachment of earnings order)—
- (i) in paragraph (1), omit “and the person entitled to receive payments under the related maintenance order”; and
  - (ii) omit paragraph (3); and
- (j) omit—
- (i) rule 19 (payments under attachment of earnings order after imprisonment imposed);
  - (ii) in rule 22 (justices' clerks), in paragraph (2), sub-paragraphs (b), (c) and (e); and
  - (iii) rule 23 (application of these Rules to attachment of earnings orders in respect of fines etc).

## **Application with modifications of the Fines (Deductions from Income Support) Regulations 1992**

**31.** In the case of a person aged 18 or over liable to pay a sum to which Schedule 5 applies, the Fines (Deductions from Income Support) Regulations 1992(3) apply to applications for benefit deductions made under that Schedule, as they apply to such applications made under those Regulations but with the following modifications—

- (a) in regulation 1 (citation, commencement and interpretation), in paragraph (2)—
  - (i) in the definition of “application”, for “made under regulation 2” substitute “for benefit deductions made under Schedule 5 to the Courts Act 2003”;
  - (ii) after the definition of “court” insert—
    - ““in default on a collection order” has the same meaning as it has under paragraph 24A of Schedule 5 to the Courts Act 2003;
    - “existing defaulter” has the same meaning as it has under paragraph 3 of Schedule 5 to the Courts Act 2003;
    - “the fines officer”, in relation to a person subject to a collection order made under Schedule 5 to the Courts Act 2003, means any fines officer working at the fines office specified in that order;”;
  - (iii) after the definition of “state pension credit” insert—
    - ““sum due” has the same meaning as it has in paragraph 2 of Schedule 5 to the Courts Act 2003“;”.
- (b) in regulation 2 (application for deductions from income support, state pension credit or jobseeker’s allowance)—
  - (i) omit paragraph (1); and
  - (ii) in paragraph (2), after “court” insert “or the fines officer, as the case may be,”;
- (c) in regulation 2A (information that the court may require) in paragraph (1)—
  - (i) after “court” insert “or the fines officer, as the case may be,”; and
  - (ii) in the heading to the regulation, after “court” insert “or fines officer”;
- (d) In regulation 3 (contents of application)—
  - (i) in paragraph (1)—
    - (aa) in sub-paragraphs (b) and (c) for “compensation order” substitute “order requiring payment of the sum due”;
    - (bb) in sub-paragraph (d) for the words from “fine” to the end of that sub-paragraph substitute “sum due”; and
    - (cc) for sub-paragraph (g) substitute—
      - “(g) whether the offender—
        - (i) is an existing defaulter and his existing default cannot be disregarded;
        - (ii) has consented to the making of the application; or
        - (iii) is in default on a collection order”;
    - (ii) in paragraph (2) after “court” insert “or a fines officer, as the case may be,”; and
    - (iii) in paragraph (3)—
      - (aa) after “a court” insert “or a fines officer, as the case may be,”; and

- (bb) after “the court” insert “or the fines officer, as the case may be,”;
- (e) in regulation 4 (deductions from offender’s income support, state pension credit or jobseeker’s allowance), in paragraphs (1) and (2)—
  - (i) after “a court” insert “or a fines officer, as the case may be,”;
  - (ii) after “the court” insert “by or for which the application was made”; and
  - (iii) for “fine or the sum required to be paid by compensation order” substitute “sum due”;
- (f) in regulation 7 (circumstances, time of making and termination of deductions)—
  - (i) omit paragraph (2)(c);
  - (ii) in paragraph (4)(c)—
    - (aa) after “a court” insert “or a fines officer, as the case may be,”; and
    - (bb) after “its” insert “or his”;
  - (iii) in paragraph (4)(d) for “fine or under the compensation order as the case may be” substitute “sum due”; and
  - (iv) in paragraph (7) after “the court” insert “or the fines officer, as the case may be,”; and
- (g) in regulation 8 (withdrawal of application), after “court” insert “or a fines officer, as the case may be,”.